

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHRIS SANDOVAL ET AL.

Serial No.: 10/063,124

Filed: March 22, 2002

For: METHOD FOR IMPLEMENTING A BEST PRACTICE IDEA

Attorney Docket No.: FMC 1371 PUSP / 81046734

Group Art Unit: 3623

Examiner: Kalyan K. Deshpande

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief from the final rejection of claims 1-20 of the Office Action mailed on October 26, 2006 for the above-identified patent application.

I. REAL PARTY IN INTEREST

The real party in interest is Ford Motor Company ("Assignee"), a corporation organized and existing under the laws of the state of Delaware, and having a place of business at Dearborn, Michigan as set forth in the assignment recorded in the U.S. Patent and Trademark Office on October 3, 2002, Reel 013142, Frame 0949.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellants, the Appellants' legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-20 are pending in this application. Claims 1-20 have been rejected and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

None.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 provides a method for implementing a best practice idea within an organization. The method includes receiving at least one best practice idea from one or more best practice requesters, US 2003/0004766, [0039], assigning the best practice idea to a best practice process ownership team and at least one functional champion within the organization wherein the process ownership team and the at least one functional champion analyze the best practice idea to confirm that the best practice idea is a best practice, assess the feasibility of the best practice, and are responsible for the development and implementation of the best practice idea, [0059]-[0076], and presenting the best practice idea to at least one executive sponsor for approval and commitment wherein the at least one executive sponsor possesses the executive authority to exercise organizational resources necessary to develop and implement the best practice idea, [0078]-[0084]. The method also includes defining a project plan for the best practice idea wherein the project plan tracks any necessary steps for developing and implementing the best practice idea, [0088], developing the best practice idea according to the project plan, [0089]-[0101], and deploying the best practice idea within at least one organizational function, [0112]-[0137].

Claims 18 provides a method for implementing best practice processes within an organization. The method includes a step for initiating at least one best practice idea, US 2003/0004766, [0039], a step for analyzing the at least one best practice idea and selecting one or more of the at least one best practice idea to implement, [0059]-[0076], a step for

developing the selected best practice idea(s), [0089]-[0101], a step for approving the selected best practice idea(s), [0078]-[0084], and a step for deploying the selected best practice idea(s), [0112]-[0137].

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Baker et al. (Baker, Sunny; Baker, Kim; THE COMPLETE IDIOT'S GUIDE TO PROJECT MANAGEMENT, Alpha Books, 2000)

VII. ARGUMENT

A. Claims 1-20 Are Patentable Under 35 U.S.C. § 103(a) Over Baker

With regard to claim 1, Baker fails to teach, disclose, or suggest receiving at least one best practice idea from one or more best practice requesters. Examiner asserts that:

Baker teaches “best practice” in general based on the broadness of the claim (see Baker pp. 55-60; where a best practice idea is selected from a list of received project ideas). Furthermore, Baker teaches Applicants’ special definition of “best practice” (see Baker pp. 90-91; where projects are broken down in to tasks). Based on the teachings of Baker, Examiner respectfully submits that Applicants’ argument that Baker fails to teach “receiving at least one best practice idea from one or more best practice requesters” is not persuasive.

Office Action, October 26, 2006, pg. 3, (emphasis added).

Examiner attempts to construe the phrase “best practice” to simply mean “project.” Applicants, however, are entitled to be their own lexicographer and have done so by defining the phrase “best practice” in the first sentence of the Detailed Description: “A ‘best practice’ in accordance with the present invention is the most effective way to execute a specific business process, task or objective.” (US 2003/0004766 A1, [0025]).

Baker provides a discussion on how to prioritize and select projects. (Baker, pp. 55-60). The mere fact that Baker suggests selecting a project does not necessarily make that project a “best practice.” The “projects” of Baker, e.g., “Fix last year’s interface boards,” “Open Cucamonga sales office,” (Baker, p. 57), are not “best practices,” i.e., they are not the most effective ways to execute a specific business process, task or objective. Instead, they are merely a collection of differing things that may be undertaken. Likewise, a project broken down into tasks does not somehow make the tasks or project a “best practice”—Baker defines a task as “a cohesive unit of work on a project—one that’s not too big or too small to be tracked.”

To the extent the remaining limitations of claims 1 and 18 recite the phrase “best practice,” Baker fails to teach, disclose, or suggest these limitations as the “projects” of Baker are not “best practices.” For example, with regard to claim 1, Baker fails to teach, disclose, or suggest wherein the process ownership team and the at least one functional champion analyze the best practice idea to confirm that the best practice idea is a best practice. Baker cannot teach the preceding limitation as analyzing a project idea to confirm that the project idea is a project does not make any sense.

With regard to claim 1, Baker fails to teach, disclose, or suggest wherein the at least one executive sponsor possesses the executive authority to exercise organizational resources necessary to develop and implement the best practice idea. Baker merely states that the “Review and Approval Team . . . is the group . . . who must approve and agree on project definitions, budgets, plans, and changes,” (Baker, p. 50), and that the group “will likely include functional managers and executives from your own organization who must approve aspects of the project,” *Id* (emphasis added). Baker is silent as to whether any member of its “Review and Approval Team” possesses the executive authority to exercise organizational resources necessary to develop and implement the project, assuming, *arguendo*, that Baker’s

“projects” are “best practices.” To the extent Examiner argues that such disclosure is inherent to Baker, Examiner fails to carry the burden:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); In re Oelrich, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’” In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted)

MPEP § 2112 (emphasis added).

Examiner provides no such extrinsic evidence. Rather, Examiner merely asserts that “Executives will have the executive authority exercise organizational resources to develop and implement ideas . . . [and] [w]hen a functional manager and/or executive have the authority to approve of ideas, the approval of the idea implicitly is the same as having the authority to organize resources to develop and implement the idea.” Office Action, October 26, 2006, pg. 4. Applicants’ Attorney disagrees with Examiner. Authority to approve does not necessarily imply authority to exercise organizational resources necessary to develop and implement. For example, a manager or executive may need to approve the deployment of a best practice but may not have the fiscal, or otherwise, authority to exercise organizational resources to implement the best practice. That authority may reside with a person higher in the organizational structure, e.g., a Vice President.

With regard to claim 1, Baker fails to teach, disclose, or suggest deploying the best practice idea within at least one organizational function. The Examiner argues that “[a]ssembling an implementation team and identifying a functional organization the project is going to affect implies that the project plan will be deployed to that functional unit.” (Office Action, May 23, 2006, p.4). The Examiner then goes on to discuss the advantages of deploying a project plan to an organization function. *Id.* As explained above, a “project” or “project plan,” however, is not a “best practice idea.”

The Examiner asserts that claim 18 recites “‘best practices processes’ which is the same as ‘best practices ideas’ and limitations already addressed by the rejection of claims 1-17; therefore the same rejections apply to [this claim].” (Office Action, October 26, 2007, p. 11). While Applicants’ Attorney does not necessarily agree with Examiner’s assertion, for the purposes of this appeal, claim 18 is patentable at least for the reasons claim 1 is patentable.

The dependent claims are patentable because they depend from one of the independent claims.

The fee of \$500 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2) is enclosed. Please charge any additional fee or credit any overpayment in connection with this filing to Deposit Account No. 06-1510.

Respectfully submitted,

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Enclosure - Appendices

VIII. CLAIMS APPENDIX

1. A method for implementing a best practice idea within an organization comprising:

receiving at least one best practice idea from one or more best practice requesters;

assigning the best practice idea to a best practice process ownership team and at least one functional champion within the organization wherein the process ownership team and the at least one functional champion analyze the best practice idea to confirm that the best practice idea is a best practice, assess the feasibility of the best practice, and are responsible for the development and implementation of the best practice idea;

presenting the best practice idea to at least one executive sponsor for approval and commitment wherein the at least one executive sponsor possesses the executive authority to exercise organizational resources necessary to develop and implement the best practice idea;

defining a project plan for the best practice idea wherein the project plan tracks any necessary steps for developing and implementing the best practice idea;

developing the best practice idea according to the project plan; and

deploying the best practice idea within at least one organizational function.

2. The method of claim 1 wherein the best practice process ownership team and the at least one functional champion additionally assess the novelty and priority of the best practice idea with respect to previously identified best practice ideas.

3. The method of claim 1 wherein the organizational resources are selected from a group consisting of human resources, machine resources, computing resources, material resources and supplier resources.

4. The method of claim 1 wherein the step of deploying the best practice idea includes communicating the best practice idea to organizational resources necessary to effectively carry out the best practice idea and requiring that the best practice idea be carried out by those organizational resources.

5. The method of claim 1 additionally comprising presenting the best practice idea to the process ownership team for approval prior to deployment of the best practice idea.

6. The method of claim 1 additionally comprising implementing and institutionalizing the best practice idea within the at least one organizational function.

7. The method of claim 1 additionally comprising conducting a pilot of the best practice idea.

8. The method of claim 1 wherein the process ownership team comprises a steering team, a roundtable group and a best practice team.

9. The method of claim 8 wherein the steering team includes one or more process ownership team champions and one or more process ownership team leaders.

10. The method of claim 9 wherein the one or more process ownership team champions are responsible for managing the process ownership team and chair the steering team.

11. The method of claim 8 wherein the steering team includes one or more cross-functional representatives.

12. The method of claim 8 wherein the steering team allocates organizational resources for the development of the best practice idea, provides approval to begin developing the best practice idea, and approves the developed best practice idea before it is implemented.

13. The method of claim 8 wherein the best practice team includes one or more subject matter experts, the best practice requester, one or more user and deployment representatives, and one or more financial analysts.

14. The method of claim 1 wherein one or more worksheet templates are utilized to document the identification, selection, development, and deployment of the at least one best practice idea.

15. The method of claim 14 wherein the one or more worksheet templates are electronic and are populated in an online fashion.

16. The method of claim 1 wherein information gathered while identifying, selecting, developing and deploying the at least one best practice idea is maintained in a computer database.

17. The method of claim 16 wherein the computer database is accessible and searchable via the Internet including the World-Wide-Web.

18. A method for implementing best practice processes within an organization comprising:

a step for initiating at least one best practice idea;

a step for analyzing the at least one best practice idea and selecting one or more of the at least one best practice idea to implement;

a step for developing the selected best practice idea(s);

a step for approving the selected best practice idea(s); and

a step for deploying the selected best practice idea(s).

19. The method of claim 18 additionally comprising a step for implementing and institutionalizing the best practice idea.

20. The method of claim 18 additionally comprising a step for piloting the best practice idea.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.